

24 April 1985

MEMORANDUM FOR: Director of Personnel

STAT

FROM:



SUBJECT: Retirement Bills

1. With respect to the OPM budget proposal--the bill which amends the Civil Service System, we suggest two changes:

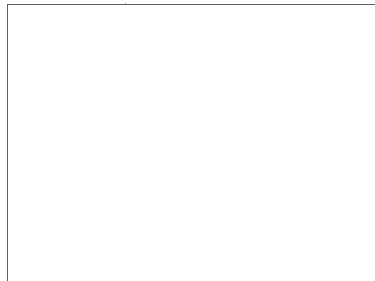
First, On Page 2, we add the words "for individuals retiring from the Central Intelligence Agency or as provided...." This removes CIA employees from the early retirement penalty. If this is too rich a mix for the current negotiations, the fall-back position would have to be inserted "for such CIA employees as the DCI shall designate."

2. We also delete on Page 12 of the bill Section 6a which would have provided the retirement penalty for those in the CIARDS System.

3. We need to restore the current section 8341 for CIA employees.

4. With respect to the supplemental system, it is my understanding that what we wish to accomplish is simply to remove the Agency from this bill so that we can craft a supplemental system as an amendment to CIARDS. This would change CIARDS into a two-tiered system with benefits comparable to those now available under the Civil Service System for most of our employees and a second-tiered which would be replicate the current CIARDS benefits for our operational cadre. In order to remove the Central Intelligence Agency from this bill, it is only necessary to insert on Page 2 (iv) an employee of the CIA. Again, our fall-back could be the alternative wording "such CIA employees as the DCI shall designate."

STAT



*Admin Budget
Proposals*

ADMINISTRATION BUDGET PROPOSALS FOR FY 1986

- Raise the retirement age for full benefits under CSRS from age 55 to 65; and from 50 to 60 under CIARDS.
- Reduce annuities by 5% for each year under age 65 (60 for CIARDS). Retirement would still be permitted at age 55 but with reductions.
- Employees presently 55 under CSRS and 50 under CIARDS are not subject to reductions.
- Eliminate the January 1986 cost-of-living (COLA) for retirees.
- Calculate 1987 and later COLAs based on the lower of the increase in General Schedule pay or the Consumer Price Index. Full indexing would be applied to the first \$10,000 of pension income. Amounts above \$10,000 would be increased by 55% of the index factor.
- Phase out retirement credit for unused sick leave over a five-year period. Does not apply to employees eligible to retire before 1 October 1985.
- Change formula to calculate annuities from highest three years of earnings to highest two. Does not apply to employees eligible to retire before 1 October 1988.
- Conform Civil Service survivor, adult student, and minimum benefits to those provided by Social Security.

STEVENS' PROPOSAL

In addition to Social Security coverage the Stevens' Proposal offers the following major ingredients:

- A Defined benefit plan (.85% x high-five average salary x years of service) with no employee contribution; and,
- A voluntary capital accumulation plan with 401k tax advantages - employees permitted to contribute up to 10% of their salary with the Government matching \$2 for \$1 of the first 4%.
- Basic benefits from the defined benefit plan would be fully payable at age 62 with 10 years of service.
- Employees could retire at age 55 with 30 years service but benefits would be reduced by 2% for each year under age 62.
- Provides special benefits for fire fighters, law enforcement officers, and air traffic controllers to retire with unreduced benefits at age 55 with 25 years service.
- Provides an option for Federal employees hired prior to 1 January 1984 to participate in the new system.

STEVENS' BILL

TRANSITION PROVISIONS

Individuals on board prior to 1 January 1984 may:

- ° Remain in their current system.
- ° Transfer totally to the new Stevens' plan. (Employee contribution to the old system and matching Government contribution plus interest would be transferred to the new plan.)
- ° Commence participation in the Stevens' plan and retain accrued credit for entitlement to benefits under current system.

GRANDFATHER PROVISIONS

ADMINISTRATION BUDGET PROPOSALS

- ° Employees who are age 55 or older under CSRS and 50 and older under CIARDS on 1 October 1985 would have no reduction in their annuities.
- ° The change from high-three to high-five ^{will} not apply to individuals currently eligible to retire or who become eligible on or before 1 October 1988.
- ° The phase out of service credit for all unused sick leave ^{will} ~~does~~ not apply to individuals eligible to retire before 1 October 1985. Afterwards, employees ^{will} be eligible for credit of unused sick leave under the following conditions:
 - 80% if eligible to retire after 30 Sept 85 but before 1 Oct 86
 - 60% if eligible to retire after 30 Sept 86 but before 1 Oct 87
 - 40% if eligible to retire after 30 Sept 87 but before 1 Oct 88
 - 20% if eligible to retire after 30 Sept 88 but before 1 Oct 89
 - 0% if becomes eligible to retire after 30 September 1989

EXCERPT FROM PROPOSED BUDGET LEGISLATION

"(2)(A) Except as provided in subparagraph (B) of this paragraph, the annuity computed under subsection (a) of this section for an individual retiring under section 8336(a), (b), (d), (f), or (h) of * this title who is under age 65 on the date of separation, or for an individual retiring under section 8338(a) of this title who is under age 65 on the commencing date of annuity, is reduced as follows:

*Age of employee on October 1, 1985	Percentage reduction per year or part thereof, not in excess of 10 years, under age 65
55 or over	0.0
54	0.5
53	1.0
52	1.5
51	2.0
50	2.5
49	3.0
48	3.5
47	4.0
46	4.5
45 or under	5.0."

* Not included in this section and thereby excluded from reductions are law enforcement officers, fire fighters, and air traffic controllers.

**EXCERPT FROM PROPOSED BUDGET LEGISLATION CONFORMING
CIARDS TO REDUCTIONS**

Conforming Amendments to Other Laws

Sec. 6 (a) Section 221 (a) of the Central Intelligence Agency Retirement and Disability System, P.L. 88-643, as amended (50 U.S.C. 403 note), is amended by inserting "(1)" after "(a)" and adding the following new subsection:

"(2) An annuity computed under this section for an individual retiring under section 233 of this act who is under age 60 on the date the annuity commences is reduced as follows--

Age of employee on October 1, 1985	Percentage reduction per year or part thereof, not in excess of 10 years, under age 60
50 or over	0.0
49	0.5
48	1.0
47	1.5
46	2.0
45	2.5
44	3.0
43	3.5
42	4.0
41	4.5
40 or under	5.0."

SECTION-BY-SECTION ANALYSIS

To accompany a draft bill

"To amend title 5, United States Code, to reform the Civil Service Retirement System, and for other purposes."

The first section titles the bill as the "Civil Service Retirement Reform Act of 1985."

Section 2 contains the various amendments to chapter 83 of title 5, United States Code, designed to curtail unnecessary and excessive expenditures for Civil Service Retirement benefits and to bring the program closer into line with private sector practices.

Paragraph (1) of section 2 amends section 8331(1)(G), (1)(iv), (7), and (20) to exclude from the Civil Service Retirement System certain individuals who are employed by the District of Columbia government. It also amends section 8331(4) to base average pay (which is used as the base for computing annuities) on the highest earnings during five consecutive years of creditable service rather than three.

Paragraph (2) of section 2 amends section 8332(b) to eliminate retirement credit for certain future service performed for the District of Columbia government.

Paragraph (3) of section 2 repeals section 8334(g)(5) which prohibits requiring a deposit for crediting unused sick leave.

Paragraph (4) of section 2 amends section 8338(a) to provide that a deferred annuity will commence on the later of age 62 or receipt of an application.

Paragraph (5) of section 2 amends section 8339 by amending subsection (h) to provide for a reduction in retirement benefits for employees (other than law enforcement officers, firefighters, and air traffic controllers) who retire or receive a deferred annuity before age 65. The reduction will eventually be 5 percent for each year or part of a year the retiree is under age 65, not exceeding ten years, but will be phased in through increases of 1/2 percent per year. Individuals who have attained age 55 by the date of enactment will not be subject to the reduction. The Office of Personnel Management will be able to waive this reduction in the case of involuntary or early retirements, but the employing agency will be required to reimburse the Fund for the cost of such waiver, unless the Office decides such reimbursement is inappropriate. Section 8339 is also amended by repealing subsection (m) relating to the crediting of unused sick leave as service in computing annuities.

Paragraph (6) of section 2 amends section 8340(b) to base cost-of-living adjustments on the lesser of the average adjustment (including zero, if applicable) in General Schedule pay rates during the same fiscal year, or the change in the Consumer Price Index (CPI). The amendments also

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Subsection (j) makes the provisions of section 8348(k) of title 5, United States Code, as added by section 2(10)(B) of the Act, applicable with respect to all checks for benefits under the Civil Service Retirement System issued on or after the first day of the twenty-fourth month after the month in which the Act is enacted.

Subsection (k) requires the Secretary of the Treasury to transfer to the Retirement Fund, out of any money in the Treasury not otherwise appropriated, in the month in which the Act is enacted and in each of the succeeding 30 months, the amount necessary to reimburse the Fund for the total amount of all checks, including interest, which he and the Office of Personnel Management jointly determine to be uncashed benefit checks from the Retirement System. After money is transferred with respect to any check, that check is subject to the provisions of paragraphs (3) and (4) of section 8348(k) of title 5, United States Code, relating to subsequent payments of such checks, as added by section 2(10)(B) of the Act.

Section 6 (a) Amend the Foreign Service retirement law to apply a reduction for early retirement before age 60 in this system, paralleling the reduction proposed by section 2(5)(B) of the bill for early retirement before age 60 under the Civil Service retirement system. The other retirement reforms proposed by the Civil Service retirement system in the bill can be implemented administratively for this system pursuant to section 827 of the Foreign Service retirement law.

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Subsection (k) requires the Secretary of the Treasury to transfer to the Retirement Fund, out of any money in the Treasury not otherwise appropriated, in the month in which the Act is enacted and in each of the succeeding 30 months, the amount necessary to reimburse the Fund for the total amount of all checks, including interest, which he and the Office of Personnel Management jointly determine to be uncashed benefit checks from the Retirement System. After money is transferred with respect to any check, that check is subject to the provisions of paragraphs (3) and (4) of section 8348(k) of title 5, United States Code, relating to subsequent payments of such checks, as added by section 2(10)(B) of the Act.

Section 6 (a) Amend the Foreign Service retirement law to apply a reduction for early retirement before age 60 in this system, paralleling the reduction proposed by section 2(5)(B) of the bill for early retirement before age 60 under the Civil Service retirement system. The other retirement provisions proposed by the Civil Service retirement system in the bill can be implemented administratively for this system pursuant to section 827 of the Foreign Service retirement law.

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Subsection (k) requires the Secretary of the Treasury to transfer to the Retirement Fund, out of any money in the Treasury not otherwise appropriated, in the month in which the Act is enacted and in each of the succeeding 30 months, the amount necessary to reimburse the Fund for the total amount of all checks, including interest, which he and the Office of Personnel Management jointly determine to be uncashed benefit checks from the Retirement System. After money is transferred with respect to any check, that check is subject to the provisions of paragraphs (3) and (4) of section 8348(k) of title 5, United States Code, relating to subsequent payments of such checks, as added by section 2(10)(B) of the Act.

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children and widows

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provide that the amount of any annuity exceeding a specified base amount shall be increased by only 55 percent of the cost-of-living adjustment otherwise payable. The base amount in 1986 shall be \$10,000, which shall be increased in each succeeding year by the percentage of the cost-of-living adjustment taking effect the preceding December.

For all employees other than CIA employees or employees who would have been eligible to retire under sec 8336, and

Paragraph (7) of section 2 amends section 8341 by amending subsections (a) and (e) to eliminate survivor benefits for students in post-secondary schools and to terminate benefits for elementary or secondary school students at the end of the month prior to completion of school or at age 19, whichever comes first. It also corrects an erroneous citation and changes the permissible interim period between school years from 5 months to 4 months. In addition, it adds a new subsection (k) which provides that, notwithstanding any other provision of law, no benefits are payable to any widow, widower, or survivor named under section 8339(k)(1) of title 5, United States Code, of any employee, Member, or annuitant, for any month during any portion of which the widow, widower, or survivor has not attained age 60, has not attained age 50 if disabled as defined under section 223(d) of the Social Security Act of 1935, as amended, or is not caring for a child, as defined in section 8341(a)(4), of the employee, Member, or annuitant. It further provides that survivor benefits paid under section 8341 following a period of non-payment by reason of new subsection (k) are computed as though the period of non-payment had not occurred.

Paragraph (8) of section 2 amends section 8345 by amending subsection (b)(2) to incorporate in title 5, United States Code, a commencing date provision enacted as a part of Public Law 97-377, and a specific commencing date provision for certain deferred annuities, and by repealing subsection (f) relating to minimum annuities.

Paragraph (9) of section 2 amends section 8347 to delete subsection (h), consistent with the exclusion of the government of the District of Columbia from the Retirement System.

Paragraph (10) of section 2 amends section 8348 to limit the provisions in subsection (h) for Postal Service payment of increases in unfunded liability attributable to benefits payable to Postal Service officers and employees, and their survivors. Assessments under that subsection will be limited to increases resulting from an employee-management agreement under title 39, or any administrative action taken by the Postal Service pursuant to law, either of which, prior to October 1, 1985, authorizes increases in pay on which benefits are computed. It then adds a new subsection (j) which requires the Postal Service and the D.C. government each to contribute to the Fund a sum to be determined by applying to the total basic pay, as defined in section 8331(3) of title 5, United States Code, paid to its employees covered by Civil Service retirement, the percentage rate determined annually by the Office of Personnel Management to be the excess of the total normal cost for the Retirement System, including the effects of future cost-of-living adjustments and future increases in pay, over the employee deduction rate specified in section 8334(a) of title 5, United States Code.

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It also adds a new subsection (k) which requires the Secretary of the Treasury to implement procedures to permit identification of each benefit check issued under subchapter III of chapter 83 of title 5, United States Code, that has not been presented for payment by the close of the sixth month following the month of its issuance. The Secretary is then required to credit monthly to the Retirement Fund, out of money in the Treasury not otherwise appropriated, the amount, including interest, of all benefit checks drawn on the Fund more than 6 months previously but neither presented for payment nor previously credited to the Fund. The Secretary is also required to pay a check which was previously credited to the Fund and then to recharge the Fund and notify the Office of Personnel Management. If the Secretary determines that it is necessary to effect proper payment, he may cancel an unnegotiated check which is presented for payment and issue a new check bearing a current date.

Section 3 amends sections 8701(a)(5) and 8716(b) of title 5, United States Code, to exclude from the Federal Employees' Group Life Insurance Program certain individuals who are employed by the government of the District of Columbia.

Section 4 amends sections 8901 and 8913(b) of title 5, United States Code, to exclude from the Federal Employees Health Benefits Program certain individuals who are employed by the government of the District of Columbia.

Section 5 provides in subsection (a) that, except as otherwise provided by that section, the amendments made by section 2 of the Act shall take effect on the date of enactment of the Act.

Subsection (b) provides that the amendments made by section 2(1)(C) of the Act, concerning average pay, will take effect on October 1, 1988, and will apply only to individuals who first become eligible for immediate retirement under chapter 83 of title 5, United States Code, on or after that effective date.

Subsection (c) provides that notwithstanding section 8340 of title 5, United States Code, as amended by section 2(6) of the Act, during fiscal year 1986 no cost-of-living adjustment of annuities may take effect.

Subsection (d) provides, notwithstanding the amendments made by section 2(7) of the Act, for the continuation of benefits without regard to those amendments for any student receiving benefits on the date of enactment until the student reaches age 22 or first ceases to be a student.

Subsection (e) provides that no annuity being paid on the date of enactment of this Act may be reduced below the rate in effect on that date by reason of the amendment made by section 2(8)(E) of the Act, concerning minimum annuities, or by reason of the manner in which section 8345(f) of title 5, United States Code, was applied by the Office of Personnel Management prior to the date of enactment of this Act, and bars collection of overpayments made by reason of the Office's application of section 8345(f) prior to that date.

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Subsection (f) provides, in paragraph (1), that the amendments made by sections 2(1)(A)-(B), 2(1)(D)-(E), 2(2), 2(9), 3, and 4 of the Act, excluding the government of the District of Columbia from the Civil Service Retirement System, the Federal Employees' Group Life Insurance (FEGLI) Program, and the Federal Employees Health Benefits (FEHB) Program, shall take effect on October 1, 1985, and shall apply to service performed on or after that date. It also provides that, notwithstanding paragraph (1), an individual who is employed by the government of the District of Columbia on September 30, 1985, and who is covered by Civil Service Retirement, FEGLI, or FEHB, is treated as though the enumerated amendments had not been enacted as long as the individual remains continuously employed. Leaving employment with the government of the District of Columbia for 365 days or less, or leaving to perform full-time military service and exercising reemployment rights under chapter 43 of title 38, United States Code, does not constitute a disruption of the continuous service, irrespective of whether the break begins before, on, or after September 30, 1985.

Subsection (g) provides that the elimination of credit for unused sick leave in the computation of Civil Service Retirement annuities by section 6 of the bill would be phased in over a four-year period starting in October 1985. For individuals eligible to retire on an immediate annuity in the first of the four years, 80 percent of the amount of any unused sick leave would be used in annuity computation; for those eligible in the second year, 60 percent of any unused sick leave would be used; for those eligible in the third year, 40 percent of any unused sick leave would be used; and for those eligible in the fourth year, 20 percent of the unused sick leave would be used. Thus, for individuals who become eligible on or after October 1, 1989, there would be no sick leave credit. Individuals who are eligible to retire on an immediate annuity before October 1985 would receive service credit for all of their unused sick leave.

Subsection (h) provides that, notwithstanding the amendments to section 8340(b) of title 5, United States Code, made by section 2(6) of the Act, the amount of any adjustment in military retired or retainer pay under section 1401a of title 10, United States Code, that is determined by reference to section 8340(b) is to be determined as if such amendments had not been enacted.

Subsection (i) provides for phasing in increased contributions to the Retirement Fund by the Postal Service and the D.C. government by stating that, notwithstanding the provisions of section 8340(j) of title 5, United States Code, as added by section 2(10)(B) of the Act, in fiscal year 1986 each entity shall contribute to the Fund a sum to be determined by applying to the total basic pay, as defined by section 8331(3) of title 5, United States Code, paid to its employees the employee deduction rate specified in section 8334(a) of title 5, United States Code, plus 2 percent. Then, in each succeeding fiscal year, the rate shall be increased by 2 percent, or such lesser amount as is necessary, until it equals the rate determined annually by the Office of Personnel Management under section 8348(j).

A BILL

To amend title 5, United States Code, to reform the Civil Service Retirement System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Service Retirement Reform Act of 1985".

Sec. 2. Chapter 83 of title 5, United States Code, is amended--

(1) in section 8331--

(A) by repealing paragraph (1)(G);

(B) by repealing paragraph (1)(iv);

(C) in paragraph (4) by striking out "3" both times it appears and inserting in lieu thereof "5";

(D) in paragraph (7) by striking out ", the government of the District of Columbia,"; and

(E) in paragraph (20)--

(i) in subparagraph (B) by inserting "and" after the semicolon at the end thereof;

(ii) in subparagraph (C) by striking out "and" after the semicolon at the end thereof; and

(iii) by repealing subparagraph (D);

(2) by repealing section 8332(b)(9);

(3) in section 8334(g)--

(A) in paragraph (4) by inserting "or" after the semicolon at the end thereof; and

(B) by repealing paragraph (5);

(4) in section 8338(a) by inserting before the period at the end thereof the following: "or on receipt of an application, whichever is later";

(5) in section 8339--

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(A) in subsection (f) by striking out "(o)" and inserting in lieu thereof "(n)";

(B) in subsection (h) by redesignating that subsection as subsection (h)(1) and by adding at the end thereof the following:

"(2)(A) Except as provided in subparagraph (B) of this paragraph, the annuity computed under subsection (a) of this section for an individual retiring under section 8336(a), (b), (d), (f), or (h) of this title who is under age 65 on the date of separation, or for an individual retiring under section 8338(a) of this title who is under age 65 on the commencing date of annuity, is reduced as follows:

Age of employee on October 1, 1985	Percentage reduction per year or part thereof, not in excess of 10 years, under age 65
55 or over	0.0
54	0.5
53	1.0
52	1.5
51	2.0
50	2.5
49	3.0
48	3.5
47	4.0
46	4.5
45 or under	5.0

"(B) If the Office of Personnel Management determines that the reduction otherwise required by subparagraph (A) of this paragraph would be contrary to the best interests of the Government in the case

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of any separation, or category of separations, described in section 8336(d) of this title, the Office may waive the reduction. The former employing agency of any employee for whom the reduction was waived shall remit to the Office, for deposit in the Treasury of the United States to the credit of the Fund, a payment determined by the Office to be necessary to offset the cost to the Fund of such waiver, unless the Office determines that such payment by the former employing agency would be contrary to the best interests of the service.”:

(C) in subsections (k) and (l) by striking out “(o)” and inserting in lieu thereof “(n)”;

(D) by repealing subsection (m);

(6) by amending section 8340(b) to read as follows:

“(b)(1) Except as provided in paragraph (2) of this subsection and subsections (c) and (g) of this section, effective December 1 of each year, each annuity having a commencing date not later than such December 1 shall be increased by the lesser of—

“(A) the overall average percentage (as set forth in the report transmitted to Congress under section 5305 of this title) of the adjustment in the rates of pay of the General Schedule taking effect in the same fiscal year, adjusted to the nearest 1/10 of 1 percent (or zero, if no such adjustment is taking effect); or

“(B) the percent change in the price index for the base quarter of that year over the price index for the base quarter of the preceding year, adjusted to the nearest 1/10 of 1 percent.

“(2)(A) In the case of an annuity payable from the Fund which exceeds the base amount determined under subparagraph (B) of this paragraph, only

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that portion of the annuity which does not exceed the base amount shall be increased by the percentage determined under paragraph (1) of this subsection, and any portion of the annuity which exceeds the base amount shall be increased by 55 percent of the percentage determined under paragraph (1) of this subsection.

"(B) For the purpose of this paragraph, the base amount shall be--

"(i) in calendar year 1986, \$10,000; and

"(ii) in each subsequent calendar year, the base amount for the preceding calendar year, increased by the percentage determined under paragraph (1) of this subsection for the adjustment taking effect on December 1 of such preceding calendar year, and rounded to the next

lowest dollar.";

To amend Sec 8341 for all employees after their employment
 (7) in section 8341-- *for CIA employees*
add as a new subsection under section 8336 C, e, or g
 (A) in subsection (a)(4)-- *or employees who would have been eligible for it*
under Sec 8336 C, e, or g

(1) by amending subparagraph (C) to read as follows:

"(C) such unmarried dependent child between 18 and 19 years of age who is a full-time elementary or secondary school student.";

(ii) by amending the next to the last sentence to read as follows:

"For the purpose of this paragraph and subsection (e) of this section, the benefits of a child who is entitled solely under subparagraph (C) of this paragraph to benefits under this section terminate at the end of the month in which he ceases to be a full-time elementary or secondary school student, or the end of the month prior to the month in which he attains

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age 19, whichever is earlier."; and

(iii) in the last sentence by striking out "5" and inserting in lieu thereof "4";

(B) in subsection (e)(2)--

(i) in the first sentence by striking out "(a)(3)" and inserting in lieu thereof "(a)(4)"; and

(ii) in subparagraph (C) by striking out "22" and inserting in lieu thereof "19"; and

(C) by adding at the end thereof the following new subsection:

"(k)(1) Notwithstanding any other provision of law, no benefits may be paid under this section to any widow, widower, former spouse, or survivor named under section 8339(k)(1) of this title, of any employee, Member, or annuitant, for any month during any portion of which the widow, widower, former spouse, or survivor named under section 8339(k)(1) of this title--

"(A) has not attained age 60;

"(B) if disabled (as defined in section 223(d) of the Social Security Act of 1935, as amended), has not attained age 50; or

"(C) does not have in his or her care a child (as defined in subsection (a)(4) of this section) of the employee, Member, or annuitant.

"(2) Benefits paid under this section after a period in which benefits were not paid by reason of this subsection are computed as though that period of non-payment had not occurred.";

(8) in section 8345--

(A) in subsection (b)--

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(1) in paragraph (2)(A) by striking out "and" at the end thereof;

(11) in paragraph (2)(B) by inserting "and" after the semicolon,

(111) by inserting after paragraph (2)(B) the following new subparagraph:

"(C) an employee or Member retiring in the first 3 days of any month;"; and

(iv) by adding at the end thereof the following new paragraph:

"(3) The annuity of an employee retiring under section 8338(a) of this title shall commence on the first day of the month following the later of age 62 or receipt of an application by the Office of Personnel Management."; and

(B) by repealing subsection (f);

(9) by repealing section 8347(h); and

(10) in section 8348--

(A) in subsection (h)(1) by inserting before "authorizes" the following: ", prior to October 1, 1985,"; and

(B) by adding at the end thereof the following new subsections:

"(j) The United States Postal Service and the District of Columbia government shall each contribute to the Fund a sum to be determined by applying to the total basic pay (as defined in section 8331(3) of this title) paid to its employees who are covered by the Civil Service Retirement System the percentage rate determined annually by the Office to be the excess of the total normal cost percent-

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age rate for that System (including the effects of future increases in pay and future cost-of-living adjustments) over the employee deduction rate specified in section 8334(a) of this title.

"(k)(1) The Secretary of the Treasury shall implement procedures to permit the identification of each check issued for benefits under this subchapter that has not been presented for payment by the close of the sixth month following the month of its issuance.

"(2) The Secretary of the Treasury shall, on a monthly basis, credit to the Fund, out of any money in the Treasury of the United States not otherwise appropriated, the amount of all benefit checks (including interest thereon) drawn on the Fund more than 6 months previously but not presented for payment and not previously credited to the Fund.

"(3) If a benefit check is presented for payment to the Treasury and the amount thereof has previously been credited to the Fund, the Secretary of the Treasury shall nevertheless pay such check, if otherwise proper, recharge the Fund, and notify the Office.

"(4) A benefit check bearing a current date may be issued to an individual who did not negotiate the original benefit check and who surrenders such check for cancellation if the Secretary of the Treasury determines such cancellation necessary to effect proper payment of benefits."

Sec. 3. Chapter 87 of title 5, United States Code, is amended--

(1) by repealing section 8701(a)(5); and

(2) in section 8716(b)--

(A) in paragraph (1) by inserting "or" at the end thereof;

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(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

Sec. 4. Chapter 89 of title 5, United States Code, is amended--

(1) in section 8901--

(A) by repealing paragraph (1)(E); and

(B) in paragraph (2) by striking out "and the government of the District of Columbia"; and

(2) in section 8913(b)--

(A) in paragraph (1) by inserting "or" at the end thereof;

(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

Sec. 5. (a) Except as otherwise provided by this section, the amendments made by section 2 of this Act shall take effect on the date of enactment of this Act.

(b) The amendments made by section 2(1)(C) of this Act shall take effect on October 1, 1988, and shall apply only to individuals who first become eligible for immediate retirement under chapter 83 of title 5, United States Code, on or after that date.

(c) Notwithstanding section 8340 of title 5, United States Code, as amended by section 2(6) of this Act, no cost-of-living adjustment of annuities may take effect during fiscal year 1986.

(d) Notwithstanding the amendments made by section 2(7) of this Act, an annuity being paid on the date of enactment of this Act to an individual described in section 8341(a)(4)(C) of this title, as that section existed prior to the enactment of this Act, who was attending school on that date, shall be continued without regard to those amendments until the individual

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reaches age 22 or first ceases to be a student.

(e) No annuity being paid on the date of enactment of this Act may be reduced below the rate in effect on that date by reason of the amendment made by section 2(8)(B) of this Act, or by reason of the manner in which section 8345(f) of title 5, United States Code, was applied by the Office of Personnel Management prior to such date, and collection of any overpayments made by reason of the Office's application of section 8345(f) prior to such date is hereby barred.

(f)(1) The amendments made by sections 2(1)(A)-(B), 2(1)(D)-(E), 2(2), 2(9), 3, and 4 of this Act shall take effect on October 1, 1985, and shall apply to service performed on or after that date.

(2) Notwithstanding paragraph (1) of this subsection, in the case of any individual who is employed by the government of the District of Columbia on September 30, 1985, and whose employment is subject to subchapter III of chapter 83, chapter 87, or chapter 89 of title 5, United States Code, the provisions of such subchapter or chapters shall continue to apply as if the amendments enumerated in paragraph (1) of this subsection had not been enacted so long as such individual is continuously employed by the government of the District of Columbia. For the purpose of this paragraph, an individual who leaves such employment with the government of the District of Columbia for 365 consecutive days or less, or an individual who leaves such employment to perform full-time military service (including service in the National Guard or Reserve Forces of the United States) for a period exceeding 365 consecutive days and who exercises reemployment rights under chapter 43 of title 38, United States Code, shall be considered to be continuously employed by the government of the District of Columbia during

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the break in service, regardless of whether such break in service begins before, on, or after September 30, 1985.

(g) Notwithstanding the repeal of section 8339(m) of title 5, United States Code, by section 2(5)(D) of the Act, the annuity of any individual who is eligible to retire on an immediate annuity before October 1, 1989, and who would have received a greater annuity by reason of section 8339(m) had it not been repealed shall be computed including in the total service of the employee--

(1) 100 percent of the amount of unused sick leave, in the case of an individual who is eligible to retire on an immediate annuity before October 1, 1985;

(2) 80 percent of the amount of unused sick leave, in the case of an individual who is eligible to retire on an immediate annuity after September 30, 1985, but before October 1, 1986;

(3) 60 percent of the amount of unused sick leave, in the case of an individual who is eligible to retire on an immediate annuity after September 30, 1986, but before October 1, 1987;

(4) 40 percent of the amount of unused sick leave, in the case of an individual who is eligible to retire on an immediate annuity after September 30, 1987, but before October 1, 1988; or

(5) 20 percent of the amount of unused sick leave, in the case of an individual who is eligible to retire on an immediate annuity after September 30, 1988, but before October 1, 1989.

(h) Notwithstanding the amendments made to section 8340(b) of title 5, United States Code, by section 2(6) of this Act, the amount of any adjustment in military retired and retainer pay that is determined under section

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1401a of title 10, United States Code, by reference to section 8340(b) shall be determined as if such amendments had not been enacted.

(1) Notwithstanding the provisions of section 8348(j) of title 5, United States Code, as added by section 2(10)(B) of this Act, in the fiscal year beginning on October 1, 1985, the United States Postal Service and the District of Columbia government shall each contribute to the Fund a sum to be determined by applying to the total basic pay (as defined in section 8331(3) of title 5, United States Code) paid to its employees the employee deduction rate specified in section 8334(a) of title 5, United States Code, plus 2 percent. In each succeeding fiscal year, the rate shall be increased by an additional 2 percent, or such lesser amount as is necessary, until it equals the rate determined annually by the Office of Personnel Management under such section 8348(j).

(j) The provisions of section 8348(k) of title 5, United States Code, as added by section 2(10)(B) of this Act, shall apply with respect to all checks for benefits under the Civil Service Retirement System which are issued on or after the first day of the twenty-fourth month following the month in which this Act is enacted.

(k) The Secretary of the Treasury shall transfer to the Civil Service Retirement and Disability Fund, out any money in the Treasury of the United States not otherwise appropriated, in the month following the month in which this Act is enacted and in each of the succeeding 30 months, such sums as may be necessary to reimburse the Fund for the total amount of all checks (including interest thereon) which he and the Office jointly determine to be unnegotiated benefit checks. After any amounts authorized by this subsection have been transferred to the Fund with respect to any benefit check,

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the provisions of paragraphs (3) and (4) of section 8348(k) of title 5, United States Code, as added by section 2(10)(B) of this Act, shall be applicable to such check.

Conforming Amendments To Other Laws

Sec. 6 (a) Section 221 (a) of the Central Intelligence Agency Retirement and Disability System, P. L. 88-643, as amended (50 U.S.C. 403 note), is amended by inserting "(1)" after "(a)" and adding the following new subsection:

"(2) An annuity computed under this section for an individual retiring under section 233 of this Act who is under age 60 on the date the annuity commences is reduced as follows--

Age of employee on October 1, 1985	Percentage reduction per year or part thereof, not in excess of 10 years, under age 60
50 or over	0.0
49	0.5
48	1.0
47	1.5
46	2.0
45	2.5
44	3.0
43	3.5
42	4.0
41	4.5
40 or under	5.0."

(b) Section 806(a) of the Foreign Service Act of 1980, as amended, (22 U.S.C. 4046(a)) is amended by inserting "(1)" after "(a)" and adding the following new subsection:

"(2) An annuity computed under this section for an individual retiring under sections 607(c), 608, 811 and 813 of this Act who is under age 60 on the date the annuity commences is reduced as follows:

Age of employee on October 1, 1985	Percentage reduction per year or part thereof, not in excess of 10 years, under age 60
50 or over	0.0
49	0.5
48	1.0
47	1.5
46	2.0
45	2.5
44	3.0
43	3.5
42	4.0
41	4.5
40 or under	5.0."

(c) The amendments made by this section shall take effect on the date of enactment of this Act.

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(A) in subsection (f) by striking out "(o)" and inserting in lieu thereof "(n)";

(B) in subsection (h) by redesignating that subsection as subsection (h)(1) and by adding at the end thereof the following:

"(2)(A) Except/as provided in subparagraph (B) of this paragraph, the annuity computed under subsection (a) of this section for an individual retiring under section 8336(a), (b), (d), (f), or (h) of this title who is under age 65 on the date of separation, or for an individual retiring under section 8338(a) of this title who is under age 65 on the commencing date of annuity, is reduced as follows:

"Age of employee on
October 1, 1985

Percentage reduction per year
or part thereof, not in excess
of 10 years, under age 65

55 or over	0.0
54	0.5
53	1.0
52	1.5
51	2.0
50	2.5
49	3.0
48	3.5
47	4.0
46	4.5
45 or under	5.0

"(B) If the Office of Personnel Management determines that the reduction otherwise required by subparagraph (A) of this paragraph would be contrary to the best interests of the Government in the case

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that portion of the annuity which does not exceed the base amount shall be increased by the percentage determined under paragraph (1) of this subsection, and any portion of the annuity which exceeds the base amount shall be increased by 55 percent of the percentage determined under paragraph (1) of this subsection.

"(B) For the purpose of this paragraph, the base amount shall be--

"(i) in calendar year 1986, \$10,000; and

"(ii) in each subsequent calendar year, the base amount for the preceding calendar year, increased by the percentage determined under paragraph (1) of this subsection for the adjustment taking effect on December 1 of such preceding calendar year, and rounded to the next lowest dollar.";

(7) in section 8341--

(A) in subsection (a)(4)--

(i) by amending subparagraph (C) to read as follows:

"(C) such unmarried dependent child between 18 and 19 years of age who is a full-time elementary or secondary school student.";

(ii) by amending the next to the last sentence to read as follows:

"For the purpose of this paragraph and subsection (e) of this section, the benefits of a child who is entitled solely under subparagraph (C) of this paragraph to benefits under this section terminate at the end of the month in which he ceases to be a full-time elementary or secondary school student, or the end of the month prior to the month in which he attains

THIS SECTION
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INCLUDES
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the provisions of paragraphs (3) and (4) of section 8348(k) of title 5, United States Code, as added by section 2(10)(B) of this Act, shall be applicable to such check.

Conforming Amendments To Other Laws

Sec. 6 (a) Section 221 (a) of the Central Intelligence Agency Retirement and Disability System, P. L. 88-643, as amended (50 U.S.C. 403 note), is amended by inserting "(1)" after "(a)" and adding the following new subsection:

"(2) An annuity computed under this section for an individual retiring under section 233 of this Act who is under age 60 on the date the annuity commences is reduced as follows--

Age of employee on October 1, 1985	Percentage reduction per year or part thereof, not in excess of 10 years, under age 60
50 or over	0.0
49	0.5
48	1.0
47	1.5
46	2.0
45	2.5
44	3.0
43	3.5
42	4.0
41	4.5
40 or under	5.0."

Sec. 6 Section 806(a) of the Foreign Service Act of 1980, as amended, (22 U.S.C. 4046(a)) is amended by inserting "(1)" after "(a)" and adding the following new subsection:

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(A) in subsection (f) by striking out "(o)" and inserting in lieu thereof "(n)";

(B) in subsection (h) by redesignating that subsection as subsection (h)(1) and by adding at the end thereof the following:

"(2)(A) Except ~~for individuals retiring from CIA or~~ as provided in subparagraph (B) of this paragraph, the annuity computed under subsection (a) of this section for an individual retiring under section 8336(a), (b), (d), (f), or (h) of this title who is under age 65 on the date of separation, or for an individual retiring under section 8338(a) of this title who is under age 65 on the commencing date of annuity, is reduced as follows:

"Age of employee on
October 1, 1985 -

Percentage reduction per year
or part thereof, not in excess
of 10 years, under age 65

55 or over	0.0
54	0.5
53	1.0
52	1.5
51	2.0
50	2.5
49	3.0
48	3.5
47	4.0
46	4.5
45 or under	5.0

"(B) If the Office of Personnel Management determines that the reduction otherwise required by subparagraph (A) of this paragraph would be contrary to the best interests of the Government in the case

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that portion of the annuity which does not exceed the base amount shall be increased by the percentage determined under paragraph (1) of this subsection, and any portion of the annuity which exceeds the base amount shall be increased by 55 percent of the percentage determined under paragraph (1) of this subsection.

"(B) For the purpose of this paragraph, the base amount shall be--

"(1) in calendar year 1986, \$10,000; and

"(11) in each subsequent calendar year, the base amount for the preceding calendar year, increased by the percentage determined under paragraph (1) of this subsection for the adjustment taking effect on December 1 of such preceding calendar year, and rounded to the next lowest dollar.";

(7) in section 8341--

(A) in subsection (a)(4)--

(1) by amending subparagraph (C) to read as follows:

"(C) such unmarried dependent child between 18 and 19 years of age who is a full-time elementary or secondary school student.";

(11) by amending the next to the last sentence to read as follows:

"For the purpose of this paragraph and subsection (e) of this section, the benefits of a child who is entitled solely under subparagraph (C) of this paragraph to benefits under this section terminate at the end of the month in which he ceases to be a full-time elementary or secondary school student, or the end of the month prior to the month in which he attains

THIS SECTION NEEDS
MODIFICATION
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the provisions of paragraphs (3) and (4) of section 8348(k) of title 5, United States Code, as added by section 2(10)(B) of this Act, shall be applicable to such check.

Conforming Amendments To Other Laws

Sec. 6 (a) Section 221 (a) of the Central Intelligence Agency Retirement and Disability System, P. L. 88-643, as amended (50 U.S.C. 403 note), is amended by inserting "(1)" after "(a)" and adding the following new subsection:

"(2) An annuity computed under this section for an individual retiring under section 233 of this Act who is under age 60 on the date the annuity commences is reduced as follows--

Age of employee on October 1, 1985	Percentage reduction per year or part thereof, not in excess of 10 years, under age 60
50 or over	0.0
49	0.5
48	1.0
47	1.5
46	2.0
45	2.5
44	3.0
43	3.5
42	4.0
41	4.5
40 or under	5.0."

Sec. 6 Section 806(a) of the Foreign Service Act of 1980, as amended, (22 U.S.C. 4046(a)) is amended by inserting "(1)" after "(a)" and adding the following new subsection:

-2-

(A) in subsection (f) by striking out "(o)" and inserting in lieu thereof "(n)";

(B) in subsection (h) by redesignating that subsection as subsection (h)(1) and by adding at the end thereof the following:

"(2)(A) Except/as provided in subparagraph (B) of this paragraph, ~~individuals retiring from CIA or~~ the annuity computed under subsection (a) of this section for an individual retiring under section 8336(a), (b), (d), (f), or (h) of this title who is under age 65 on the date of separation, or for an individual retiring under section 8338(a) of this title who is under age 65 on the commencing date of annuity, is reduced as follows:

Age of employee on October 1, 1985	Percentage reduction per year or part thereof, not in excess of 10 years, under age 65
55 or over	0.0
54	0.5
53	1.0
52	1.5
51	2.0
50	2.5
49	3.0
48	3.5
47	4.0
46	4.5
45 or under	5.0

"(B) If the Office of Personnel Management determines that the reduction otherwise required by subparagraph (A) of this paragraph would be contrary to the best interests of the Government in the case

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that portion of the annuity which does not exceed the base amount shall be increased by the percentage determined under paragraph (1) of this subsection, and any portion of the annuity which exceeds the base amount shall be increased by 55 percent of the percentage determined under paragraph (1) of this subsection.

"(B) For the purpose of this paragraph, the base amount shall be--

"(1) in calendar year 1986, \$10,000; and

"(11) in each subsequent calendar year, the base amount for the preceding calendar year, increased by the percentage determined under paragraph (1) of this subsection for the adjustment taking effect on December 1 of such preceding calendar year, and rounded to the next lowest dollar.";

(7) in section 8341--

(A) in subsection (a)(4)--

(1) by amending subparagraph (C) to read as follows:

"(C) such unmarried dependent child between 18 and 19 years of age who is a full-time elementary or secondary school student.";

(11) by amending the next to the last sentence to read as follows:

"For the purpose of this paragraph and subsection (e) of this section, the benefits of a child who is entitled solely under subparagraph (C) of this paragraph to benefits under this section terminate at the end of the month in which he ceases to be a full-time elementary or secondary school student, or the end of the month prior to the month in which he attains

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EMPLOYEES

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the provisions of paragraphs (3) and (4) of section 8348(k) of title 5, United States Code, as added by section 2(10)(B) of this Act, shall be applicable to such check.

Conforming Amendments To Other Laws

Sec. 6 (a) Section 221 (a) of the Central Intelligence Agency Retirement and Disability System, P. L. 88-643, as amended (50 U.S.C. 403 note), is amended by inserting "(1)" after "(a)" and adding the following new subsection:

"(2) An annuity computed under this section for an individual retiring under section 233 of this Act who is under age 60 on the date the annuity commences is reduced as follows--

Age of employee on October 1, 1985	Percentage reduction per year or part thereof, not in excess of 10 years, under age 60
50 or over	0.0
49	0.5
48	1.0
47	1.5
46	2.0
45	2.5
44	3.0
43	3.5
42	4.0
41	4.5
40 or under	5.0."

Sec. 6 Section 806(a) of the Foreign Service Act of 1980, as amended, (22 U.S.C. 4046(a)) is amended by inserting "(1)" after "(a)" and adding the following new subsection:

-2-

(A) in subsection (f) by striking out "(o)" and inserting in lieu thereof "(n)";

(B) in subsection (h) by redesignating that subsection as subsection (h)(1) and by adding at the end thereof the following:

"(2)(A) Except/as provided in subparagraph (B) of this paragraph, ~~the~~ individuals retiring from CIA or the annuity computed under subsection (a) of this section for an individual retiring under section 8336(a), (b), (d), (f), or (h) of this title who is under age 65 on the date of separation, or for an individual retiring under section 8338(a) of this title who is under age 65 on the commencing date of annuity, is reduced as follows:

"Age of employee on
October 1, 1985 -

Percentage reduction per year
or part thereof, not in excess
of 10 years, under age 65

55 or over	0.0
54	0.5
53	1.0
52	1.5
51	2.0
50	2.5
49	3.0
48	3.5
47	4.0
46	4.5
45 or under	5.0

"(B) If the Office of Personnel Management determines that the reduction otherwise required by subparagraph (A) of this paragraph would be contrary to the best interests of the Government in the case

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that portion of the annuity which does not exceed the base amount shall be increased by the percentage determined under paragraph (1) of this subsection, and any portion of the annuity which exceeds the base amount shall be increased by 55 percent of the percentage determined under paragraph (1) of this subsection.

"(B) For the purpose of this paragraph, the base amount shall be--

"(i) in calendar year 1986, \$10,000; and

"(ii) in each subsequent calendar year, the base amount for the preceding calendar year, increased by the percentage determined under paragraph (1) of this subsection for the adjustment taking effect on December 1 of such preceding calendar year, and rounded to the next lowest dollar.";

(7) in section 8341--

(A) in subsection (a)(4)--

(i) by amending subparagraph (C) to read as follows:

"(C) such unmarried dependent child between 18 and 19 years of age who is a full-time elementary or secondary school student.";

(ii) by amending the next to the last sentence to read as follows:

"For the purpose of this paragraph and subsection (e) of this section, the benefits of a child who is entitled solely under subparagraph (C) of this paragraph to benefits under this section terminate at the end of the month in which he ceases to be a full-time elementary or secondary school student, or the end of the month prior to the month in which he attains

HIS SECTION
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EXCLUDE C
EMPLOYERS

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the provisions of paragraphs (3) and (4) of section 8348(k) of title 5, United States Code, as added by section 2(10)(B) of this Act, shall be applicable to such check.

Conforming Amendments To Other Laws

Sec. 6 (a) Section 221 (a) of the Central Intelligence Agency Retirement and Disability System, P. L. 88-643, as amended (50 U.S.C. 403 note), is amended by inserting "(1)" after "(a)" and adding the following new subsection:

"(2) An annuity computed under this section for an individual retiring under section 233 of this Act who is under age 60 on the date the annuity commences is reduced as follows--

Age of employee on October 1, 1985	Percentage reduction per year or part thereof, not in excess of 10 years, under age 60
50 or over	0.0
49	0.5
48	1.0
47	1.5
46	2.0
45	2.5
44	3.0
43	3.5
42	4.0
41	4.5
40 or under	5.0."

Sec. 6 Section 806(a) of the Foreign Service Act of 1980, as amended, (22 U.S.C. 4046(a)) is amended by inserting "(1)" after "(a)" and adding the following new subsection:

A BILL

To amend title 5, United States Code, to reform the Civil Service Retirement System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Service Retirement Reform Act of 1985".

Sec. 2. Chapter 83 of title 5, United States Code, is amended--

(1) in section 8331--

(A) by repealing paragraph (1)(G);

(B) by repealing paragraph (1)(iv);

(C) in paragraph (4) by striking out "3" both times it appears and inserting in lieu thereof "5";

(D) in paragraph (7) by striking out ", the government of the District of Columbia,"; and

(E) in paragraph (20)--

(i) in subparagraph (B) by inserting "and" after the semicolon at the end thereof;

(ii) in subparagraph (C) by striking out "and" after the semicolon at the end thereof; and

(iii) by repealing subparagraph (D);

(2) by repealing section 8332(b)(9);

(3) in section 8334(g)--

(A) in paragraph (4) by inserting "or" after the semicolon at the end thereof; and

(B) by repealing paragraph (5);

(4) in section 8338(a) by inserting before the period at the end thereof the following: "or on receipt of an application, whichever is later";

(5) in section 8339--

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(A) in subsection (f) by striking out "(o)" and inserting in lieu thereof "(n)";

(B) in subsection (h) by redesignating that subsection as subsection (h)(1) and by adding at the end thereof the following:

"(2)(A) Except ^{for individuals retiring from CIA or} as provided in subparagraph (B) of this paragraph, the annuity computed under subsection (a) of this section for an individual retiring under section 8336(a), (b), (d), (f), or (h) of this title who is under age 65 on the date of separation, or for an individual retiring under section 8338(a) of this title who is under age 65 on the commencing date of annuity, is reduced as follows:

Age of employee on October 1, 1985	Percentage reduction per year or part thereof, not in excess of 10 years, under age 65
55 or over	0.0
54	0.5
53	1.0
52	1.5
51	2.0
50	2.5
49	3.0
48	3.5
47	4.0
46	4.5
45 or under	5.0

"(B) If the Office of Personnel Management determines that the reduction otherwise required by subparagraph (A) of this paragraph would be contrary to the best interests of the Government in the case

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of any separation, or category of separations, described in section 8336(d) of this title, the Office may waive the reduction. The former employing agency of any employee for whom the reduction was waived shall remit to the Office, for deposit in the Treasury of the United States to the credit of the Fund, a payment determined by the Office to be necessary to offset the cost to the Fund of such waiver, unless the Office determines that such payment by the former employing agency would be contrary to the best interests of the service.”;

(C) in subsections (k) and (l) by striking out “(o)” and inserting in lieu thereof “(n)”;

(D) by repealing subsection (m);

(6) by amending section 8340(b) to read as follows:

“(b)(1) Except as provided in paragraph (2) of this subsection and subsections (c) and (g) of this section, effective December 1 of each year, each annuity having a commencing date not later than such December 1 shall be increased by the lesser of—

“(A) the overall average percentage (as set forth in the report transmitted to Congress under section 5305 of this title) of the adjustment in the rates of pay of the General Schedule taking effect in the same fiscal year, adjusted to the nearest 1/10 of 1 percent (or zero, if no such adjustment is taking effect); or

“(B) the percent change in the price index for the base quarter of that year over the price index for the base quarter of the preceding year, adjusted to the nearest 1/10 of 1 percent.

“(2)(A) In the case of an annuity payable from the Fund which exceeds the base amount determined under subparagraph (B) of this paragraph, only

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that portion of the annuity which does not exceed the base amount shall be increased by the percentage determined under paragraph (1) of this subsection, and any portion of the annuity which exceeds the base amount shall be increased by 55 percent of the percentage determined under paragraph (1) of this subsection.

"(B) For the purpose of this paragraph, the base amount shall be--

"(i) in calendar year 1986, \$10,000; and

"(ii) in each subsequent calendar year, the base amount for the preceding calendar year, increased by the percentage determined under paragraph (1) of this subsection for the adjustment taking effect on December 1 of such preceding calendar year, and rounded to the next lowest dollar.";

(7) in section 8341--

(A) in subsection (a)(4)--

(i) by amending subparagraph (C) to read as follows:

"(C) such unmarried dependent child between 18 and 19 years of age who is a full-time elementary or secondary school student.";

(ii) by amending the next to the last sentence to read as follows:

"For the purpose of this paragraph and subsection (e) of this section, the benefits of a child who is entitled solely under subparagraph (C) of this paragraph to benefits under this section terminate at the end of the month in which he ceases to be a full-time elementary or secondary school student, or the end of the month prior to the month in which he attains

THIS SECTION NEEDS
MODIFICATION TO
EXCLUDE CIA
EMPLOYEES SURVIVORS.

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age 19, whichever is earlier."; and

(iii) in the last sentence by striking out "5" and inserting in lieu thereof "4";

(B) in subsection (e)(2)--

(1) in the first sentence by striking out "(a)(3)" and inserting in lieu thereof "(a)(4)"; and

(ii) in subparagraph (C) by striking out "22" and inserting in lieu thereof "19"; and

(C) by adding at the end thereof the following new subsection:

"(k)(1) Notwithstanding any other provision of law, no benefits may be paid under this section to any widow, widower, former spouse, or survivor named under section 8339(k)(1) of this title, of any employee, Member, or annuitant, for any month during any portion of which the widow, widower, former spouse, or survivor named under section 8339(k)(1) of this title--

"(A) has not attained age 60;

"(B) if disabled (as defined in section 223(d) of the Social Security Act of 1935, as amended), has not attained age 50; or

"(C) does not have in his or her care a child (as defined in subsection (a)(4) of this section) of the employee, Member, or annuitant.

"(2) Benefits paid under this section after a period in which benefits were not paid by reason of this subsection are computed as though that period of non-payment had not occurred.";

(8) in section 8345--

(A) in subsection (b)--

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(i) in paragraph (2)(A) by striking out "and" at the end thereof;

(ii) in paragraph (2)(B) by inserting "and" after the semicolon.

(iii) by inserting after paragraph (2)(B) the following new subparagraph:

"(C) an employee or Member retiring in the first 3 days of any month;" and

(iv) by adding at the end thereof the following new paragraph:

"(3) The annuity of an employee retiring under section 8338(a) of this title shall commence on the first day of the month following the later of age 62 or receipt of an application by the Office of Personnel Management."; and

(B) by repealing subsection (f);

(9) by repealing section 8347(h); and

(10) in section 8348--

(A) in subsection (h)(1) by inserting before "authorizes" the following: ", prior to October 1, 1985,"; and

(B) by adding at the end thereof the following new subsections:

"(j) The United States Postal Service and the District of Columbia government shall each contribute to the Fund a sum to be determined by applying to the total basic pay (as defined in section 8331(3) of this title) paid to its employees who are covered by the Civil Service Retirement System the percentage rate determined annually by the Office to be the excess of the total normal cost percent-

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age rate for that System (including the effects of future increases in pay and future cost-of-living adjustments) over the employee deduction rate specified in section 8334(a) of this title.

"(k)(1) The Secretary of the Treasury shall implement procedures to permit the identification of each check issued for benefits under this subchapter that has not been presented for payment by the close of the sixth month following the month of its issuance.

"(2) The Secretary of the Treasury shall, on a monthly basis, credit to the Fund, out of any money in the Treasury of the United States not otherwise appropriated, the amount of all benefit checks (including interest thereon) drawn on the Fund more than 6 months previously but not presented for payment and not previously credited to the Fund.

"(3) If a benefit check is presented for payment to the Treasury and the amount thereof has previously been credited to the Fund, the Secretary of the Treasury shall nevertheless pay such check, if otherwise proper, recharge the Fund, and notify the Office.

"(4) A benefit check bearing a current date may be issued to an individual who did not negotiate the original benefit check and who surrenders such check for cancellation if the Secretary of the Treasury determines such cancellation necessary to effect proper payment of benefits."

Sec. 3. Chapter 87 of title 5, United States Code, is amended--

(1) by repealing section 8701(a)(5); and

(2) in section 8716(b)--

(A) in paragraph (1) by inserting "or" at the end thereof;

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(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

Sec. 4. Chapter 89 of title 5, United States Code, is amended--

(1) in section 8901--

(A) by repealing paragraph (1)(E); and

(B) in paragraph (2) by striking out "and the government of the District of Columbia"; and

(2) in section 8913(b)--

(A) in paragraph (1) by inserting "or" at the end thereof;

(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

Sec. 5. (a) Except as otherwise provided by this section, the amendments made by section 2 of this Act shall take effect on the date of enactment of this Act.

(b) The amendments made by section 2(1)(C) of this Act shall take effect on October 1, 1988, and shall apply only to individuals who first become eligible for immediate retirement under chapter 83 of title 5, United States Code, on or after that date.

(c) Notwithstanding section 8340 of title 5, United States Code, as amended by section 2(6) of this Act, no cost-of-living adjustment of annuities may take effect during fiscal year 1986.

(d) Notwithstanding the amendments made by section 2(7) of this Act, an annuity being paid on the date of enactment of this Act to an individual described in section 8341(a)(4)(C) of this title, as that section existed prior to the enactment of this Act, who was attending school on that date, shall be continued without regard to those amendments until the individual

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reaches age 22 or first ceases to be a student.

(e) No annuity being paid on the date of enactment of this Act may be reduced below the rate in effect on that date by reason of the amendment made by section 2(8)(B) of this Act, or by reason of the manner in which section 8345(f) of title 5, United States Code, was applied by the Office of Personnel Management prior to such date, and collection of any overpayments made by reason of the Office's application of section 8345(f) prior to such date is hereby barred.

(f)(1) The amendments made by sections 2(1)(A)-(B), 2(1)(D)-(E), 2(2), 2(9), 3, and 4 of this Act shall take effect on October 1, 1985, and shall apply to service performed on or after that date.

(2) Notwithstanding paragraph (1) of this subsection, in the case of any individual who is employed by the government of the District of Columbia on September 30, 1985, and whose employment is subject to subchapter III of chapter 83, chapter 87, or chapter 89 of title 5, United States Code, the provisions of such subchapter or chapters shall continue to apply as if the amendments enumerated in paragraph (1) of this subsection had not been enacted so long as such individual is continuously employed by the government of the District of Columbia. For the purpose of this paragraph, an individual who leaves such employment with the government of the District of Columbia for 365 consecutive days or less, or an individual who leaves such employment to perform full-time military service (including service in the National Guard or Reserve Forces of the United States) for a period exceeding 365 consecutive days and who exercises reemployment rights under chapter 43 of title 38, United States Code, shall be considered to be continuously employed by the government of the District of Columbia during

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the break in service, regardless of whether such break in service begins before, on, or after September 30, 1985.

(g) Notwithstanding the repeal of section 8339(m) of title 5, United States Code, by section 2(5)(D) of the Act, the annuity of any individual who is eligible to retire on an immediate annuity before October 1, 1989, and who would have received a greater annuity by reason of section 8339(m) had it not been repealed shall be computed including in the total service of the employee--

(1) 100 percent of the amount of unused sick leave, in the case of an individual who is eligible to retire on an immediate annuity before October 1, 1985;

(2) 80 percent of the amount of unused sick leave, in the case of an individual who is eligible to retire on an immediate annuity after September 30, 1985, but before October 1, 1986;

(3) 60 percent of the amount of unused sick leave, in the case of an individual who is eligible to retire on an immediate annuity after September 30, 1986, but before October 1, 1987;

(4) 40 percent of the amount of unused sick leave, in the case of an individual who is eligible to retire on an immediate annuity after September 30, 1987, but before October 1, 1988; or

(5) 20 percent of the amount of unused sick leave, in the case of an individual who is eligible to retire on an immediate annuity after September 30, 1988, but before October 1, 1989.

(h) Notwithstanding the amendments made to section 8340(b) of title 5, United States Code, by section 2(6) of this Act, the amount of any adjustment in military retired and retainer pay that is determined under section

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1401a of title 10, United States Code, by reference to section 8340(b) shall be determined as if such amendments had not been enacted.

(i) Notwithstanding the provisions of section 8348(j) of title 5, United States Code, as added by section 2(10)(B) of this Act, in the fiscal year beginning on October 1, 1985, the United States Postal Service and the District of Columbia government shall each contribute to the Fund a sum to be determined by applying to the total basic pay (as defined in section 8331(3) of title 5, United States Code) paid to its employees the employee deduction rate specified in section 8334(a) of title 5, United States Code, plus 2 percent. In each succeeding fiscal year, the rate shall be increased by an additional 2 percent, or such lesser amount as is necessary, until it equals the rate determined annually by the Office of Personnel Management under such section 8348(j).

(j) The provisions of section 8348(k) of title 5, United States Code, as added by section 2(10)(B) of this Act, shall apply with respect to all checks for benefits under the Civil Service Retirement System which are issued on or after the first day of the twenty-fourth month following the month in which this Act is enacted.

(k) The Secretary of the Treasury shall transfer to the Civil Service Retirement and Disability Fund, out any money in the Treasury of the United States not otherwise appropriated, in the month following the month in which this Act is enacted and in each of the succeeding 30 months, such sums as may be necessary to reimburse the Fund for the total amount of all checks (including interest thereon) which he and the Office jointly determine to be unnegotiated benefit checks. After any amounts authorized by this subsection have been transferred to the Fund with respect to any benefit check,

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the provisions of paragraphs (3) and (4) of section 8348(k) of title 5, United States Code, as added by section 2(10)(B) of this Act, shall be applicable to such check.

Conforming Amendments To Other Laws

Sec. 6 (a) Section 221 (a) of the Central Intelligence Agency Retirement and Disability System, P. L. 88-643, as amended (50 U.S.C. 403 note), is amended by inserting "(1)" after "(a)" and adding the following new subsection:

"(2) An annuity computed under this section for an individual retiring under section 233 of this Act who is under age 60 on the date the annuity commences is reduced as follows--

Age of employee on October 1, 1985	Percentage reduction per year or part thereof, not in excess of 10 years, under age 60
50 or over	0.0
49	0.5
48	1.0
47	1.5
46	2.0
45	2.5
44	3.0
43	3.5
42	4.0
41	4.5
40 or under	5.0."

Sec. 6 Section 806(a) of the Foreign Service Act of 1980, as amended, (22 U.S.C. 4046(a)) is amended by inserting "(1)" after "(a)" and adding the following new subsection:

"(2) An annuity computed under this section for an individual retiring under sections 607(c), 608, 811 and 813 of this Act who is under age 60 on the date the annuity commences is reduced as follows:

Age of employee on October 1, 1985	Percentage reduction per year or part thereof, not in excess of 10 years, under age 60
50 or over	0.0
49	0.5
48	1.0
47	1.5
46	2.0
45	2.5
44	3.0
43	3.5
42	4.0
41	4.5
40 or under	5.0."

(c) The amendments made by this section shall take effect on the date of enactment of this Act.

STATEMENT OF PURPOSE AND JUSTIFICATION

To accompany a bill

"To amend title 5, United States Code, to establish a Federal Employees' Retirement System to supplement Social Security benefits, and for other purposes."

This draft bill would establish a new retirement system for those Federal employees who are covered by Social Security. The Civil Service Retirement System was established prior to Social Security, and was designed to be adequate as the sole source of retirement income for Federal employees. In 1983, however, Congress enacted the Social Security Amendments of 1983, which, among other Social Security changes, brought new Federal employees (and certain others) under Social Security, beginning with those first hired on or after January 1, 1984. Later in 1983, recognizing that dual coverage under Social Security and the Civil Service Retirement System would be too costly for affected employees and the Government, and would provide an unnecessarily high level of benefits as well, Congress established a special transitional retirement system for the affected employees, with the expectation that an entirely new retirement system, designed to supplement Social Security, would be established by the end of 1985. The Federal Employees' Retirement System that would be established by this bill is designed to fulfill this need.

This new Retirement System would be a defined contribution plan, that is, a plan where a predetermined amount of money is set aside each year to provide for an employee's retirement, and the retirement benefit is determined by the amount of money that has been accumulated during the employee's career, including the interest the money has earned. Under the Federal Employees' Retirement System, employing agencies would contribute 11.6 percent of each employee's wages to the Retirement Fund, to be held in an account in the Treasury for that employee. This contribution would, of course, be in addition to the employer share of Social Security taxes, which the agency would also be paying.

For every employee who works at least one year, this money would be fully and automatically vested. When the employee reaches age 59 1/2--the same age that individuals can begin drawing on their Individual Retirement Account (IRA) savings--and separates from the Government, he or she could receive the amount that has accumulated in his or her account, including the interest the Treasury has paid on it over the years. At the employee's option, the money could be received either in a lump sum or as an annuity. A variety of forms of annuity would be provided, including fixed term annuities, life annuities, joint and survivor annuities (which would be required for married employees unless jointly waived by the employee and spouse), and annuities with cost-of-living

adjustments. The amounts of all of the forms of annuity would be actuarially determined, on the basis of the balance in the employee's account at the time the annuity commences.

The new Retirement System would include generous disability benefits. An employee who, after completing at least 18 months of service, becomes totally disabled would be entitled to receive, starting six months after the onset of the disability, a benefit equal to 60 percent of the pre-disability salary, reduced by the amount of any Social Security disability benefit. If the employee is not totally disabled (i.e., not disabled to the degree required under the Social Security definition of disability), but is unable to perform the duties of his or her position (or of any other position to which the agency could reassign the employee without a pay cut and within the same commuting area), the benefit would be 40 percent of the pre-disability salary. For both categories of disability beneficiaries, the amount of the benefit would be increased in subsequent years by the percentage change in the Consumer Price Index. While the employee is on the disability rolls, the former employing agency would continue to contribute 11.6 percent of the employee's final rate of basic pay (increased by subsequent average General Schedule pay increases) to the employee's account in the Retirement Fund. Then, at age 65, the special disability benefits would end, and the employee would begin receiving regular Social Security benefits and the annuity or lump-sum payment based on his or her retirement account. The special disability benefit would be financed entirely by contributions made by the employing agencies to the Retirement Fund, based on the normal cost of the disability benefits. The cost could be varied from agency to agency, if agencies have unusually high or low rates of disability.

The new Retirement System would also include special benefits for survivors of employees who die in service. A surviving spouse would be entitled to the balance in the deceased employee's retirement account, either as a lump sum or as an annuity. However, if there was less than one year's pay in the employee's retirement account, the surviving spouse would be entitled to at least that much, either in lump-sum or annuity form. These survivor benefits would, of course, be in addition to Social Security survivor benefits.

The new Retirement System would preserve the ability of certain special categories of employees to retire early. It is impractical and undesirable to expect law enforcement officers, firefighters, and air traffic controllers to work at these jobs until they reach eligibility for Social Security benefits at age 62. Therefore, these employees would be permitted to retire and receive their retirement accounts, either in lump-sum or annuity form, as early as age 50, and would also receive a special benefit, designed to approximate their expected Social Security benefit, from the date of their early retirement until age 62. This special benefit would be financed by a special normal cost payment by the employing agencies to the Retirement Fund.

Another major feature of the new Retirement System would be a Federal Employees' Savings Plan. Under this Plan, employees could contribute up to \$5,000 a year to the Fund, and the amount contributed would be deductible from the employee's

gross income in the year contributed. The money contributed would be held in the Fund, earning interest, and would be available for distribution in the same manner as an IRA.

The bill also includes provisions affecting the current Civil Service Retirement System. Employees under that System would be permitted to move to the new System, and if they did, their account in the new Retirement System's basic plan would be immediately credited with all of their accumulated contributions to the Civil Service Retirement System, plus an equal amount representing the matching agency contributions, plus an amount representing the interest their own and the agency contributions have earned while invested in the Civil Service Retirement Fund.

Since no new employees will be entering the Civil Service Retirement System in the future, the bill ensures the financial ability of that closed System to meet its financial obligations. This will be done by paying off the unfunded liability of the Civil Service Retirement Fund in equal annual installments over the next 40 years.

A BILL

To amend title 5, United States Code to establish a Federal Employees' Retirement System to supplement Social Security benefits, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees' Retirement System Act of 1985".

Sec. 2. (a) Chapter 83 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter.

"SUBCHAPTER IV--FEDERAL EMPLOYEES' RETIREMENT SYSTEM

"§8351. Purpose

"It is the purpose of this subchapter to establish a Federal Employees' Retirement System under which those employees of the United States who are subject to the provisions of the Social Security Act may accrue and receive, as deferred compensation for their service, retirement, survivor, and disability benefits to supplement the old age, survivors, and disability benefits provided under title II of the Social Security Act, and to encourage and facilitate savings by such employees.

"§8352. Definitions

"For the purpose of this subchapter--

"(1) 'employee' means--

"(A) an employee as defined in section 2105 of this title;

"(B) a Member of Congress as defined in section 2106 of this title;

"(C) a Congressional employee as defined in section 2107 of this title;

"(D) an employee of the United States Postal Service or the Postal Rate Commission; and

"(E) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838)

but does not include--

"(i) a justice or judge of the United States as defined by section 451 of title 28.

"(ii) an individual subject to another retirement system for employees of the United States; or

"(iii) an individual whose service is of a temporary or intermittent nature (other than an employee who occupies a position on a part-time career employment basis, as defined in section 3401(2) of this title) who is excluded by the appointing official or head of the agency involved or, in the case of an individual employed by an executive agency, by regulations of the Office:
(iv) an employee of the Central Intelligence Agency.

"(2) 'wages' means wages as defined by section 3121(a) of title 26, but including remuneration excluded from that definition by paragraph (1) of that section;

"(3) 'Fund' means the Federal Employees' Retirement Fund established by section 8358 of this title within the Civil Service Retirement and Disability Fund under section 8348 of this title.

"(4) 'Office' means the Office of Personnel Management;

"(5) 'law enforcement officer' means an employee, the duties of whose position--

"(A) are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States, or the

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protection of officials of the United States against threats to personal safety; and

"(B) are determined by the employing agency to require limiting employment opportunities to young and physically vigorous individuals; and

"(6) 'firefighter' means an employee the duties of whose position--

"(A) are primarily to perform work directly connected with the control and extinguishment of fires; and

"(B) are determined by the employing agency to require limiting employment opportunities to young and physically vigorous individuals.

"§8353. Contributions

"(a) Each agency employing an employee under this subchapter shall remit an amount equal to 11.6 percent of the wages of the employee to the Office each pay period for deposit in the Treasury to the credit of the Fund. In the case of a former employee who is receiving disability benefits under section 8355 of this title, the agency that employed the former employee prior to separation for disability shall remit an amount equal to 11.6 percent of the employee's final rate of basic pay, increased by the subsequent cumulative average increase in the rates of pay of the General Schedule under section 5305 of this title.

"(b) In addition to the amounts remitted under subsection (a) of this section, each agency employing an employee covered under this subchapter shall remit to the Office each pay period for deposit in the Treasury to

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the credit of the Fund the amounts determined by the Office to be appropriate under section 8358(b) of this title.

“(c) The amounts required to be remitted under this section shall be paid from the appropriation or fund used to pay the employees involved. In the case of an employee under this subchapter who is an elected official, the amounts remitted shall be paid from an appropriation or fund available for the payment of other pay of the same office or establishment. In the case of an employee who is paid by the Clerk of the House of Representatives, the Clerk may pay the amounts from the contingent fund of the House.

“§8354. Employee retirement accounts; payment of benefits

“(a) The amounts remitted on behalf of an employee under section 8353(a) of this title, together with the interest these amounts have earned while in the Fund, shall be held in the Fund in an account for that employee until disposed of in accordance with the provisions of this section. The Office shall, in cooperation with the agencies employing employees covered under this subchapter, provide each employee or former employee on behalf of whom an account is being held in the Fund with an annual statement of the balance in the account.

“(b) If an employee separates from employment covered under this subchapter after completing less than one continuous year of such employment, any money held in the employee's account shall be irrevocably forfeited by the employee and shall be used by the Office as provided in section 8358(b)(1) of this title.

“(c) Except as provided by subsection (b) of this section, an employee or former employee at any time after the later of reaching age 59 $\frac{1}{2}$ (or, in

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the case of a law enforcement officer, a firefighter, or an air traffic controller age 50) or separating from employment covered under this subchapter, may apply for and is entitled to receive--

"(1) payment of the balance held in the employee's account in a lump sum; or

"(2) payment of an annuity on the basis of the balance held in the employee's account, as provided by subsection (d) of this section.

"(d) The Office shall provide for a variety of forms of annuity, including annuities for fixed terms of years, annuities for the lives of the employee and the employee's spouse (which shall automatically be provided to each married employee unless jointly waived by the employee and the spouse), annuities for the lives of the employee and an individual having an insurable interest in the employee, and annuities the amount of which increases with inflation. The amount of all annuities provided under this subchapter shall be determined in accordance with generally accepted actuarial principles and standards, and without regard to sex.

"(e) In the case of an employee or former employee who dies after having completed at least 18 months of employment covered under this subchapter and who has not received payment of the lump-sum balance or the initial payment of annuity under subsection (c) of this section, and who is survived by a spouse, the surviving spouse shall be entitled to receive, in the form of a lump sum or an annuity, the balance in the employee's account, or in the case of an employee who dies while covered under this subchapter, the employee's final annual rate of basic pay, if such annual rate of pay is greater than the balance in the employee's account.

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"(f) In the case of an employee or former employee who dies after having completed at least one year of employment covered under this subchapter and who has not received payment of the lump-sum balance or the initial payment of annuity under subsection (c) of this section, and who is not survived by a spouse entitled to benefits under subsection (e) of this section, the balance in the employee's account shall be distributed in accordance with regulations of the Office consistent with section 8342(c) of this title.

"§8355. Disability benefits

"(a) An employee who, having completed 18 months of employment covered under this subchapter--

"(1) is under a disability within the meaning of section 223 of the Social Security Act; or

"(2) if not entitled to benefits under paragraph (1), is determined by the Office to be unable, because of disease or injury, to perform useful and efficient service in the employee's position, or in any other position to which the agency is able to reassign the employee in the same commuting area and without a reduction in pay (taking into consideration benefits under subchapter VI of chapter 53 of this title); is entitled to disability benefits in accordance with the provisions of this section.

"(b)(1) An employee who is entitled to disability benefits under paragraph (1) of subsection (a) of this section shall be paid disability benefits by the Office each month equal to 60 percent of the employee's monthly rate of basic pay immediately before separation for disability, which rate shall be increased each year by the Office on the basis of

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the percentage change in the Consumer Price Index. Disability benefits under this paragraph shall be reduced by the full amount of any disability benefits received by the employee under the Social Security Act.

"(2) An employee who is entitled to disability benefits under paragraph (2) of subsection (a) of this section shall be paid disability benefits by the Office each month equal to 40 percent of the employee's monthly rate of basic pay immediately before separation for disability, which rate shall be increased each year by the Office on the basis of the percentage change in the Consumer Price Index.

"(c) Disability benefits under this section shall commence on the first day of the first month beginning six months after the employee ceases, because of the disability, to perform useful and efficient service.

"(d)(1) Disability benefits for an employee who is entitled to such benefits under paragraph (1) of subsection (a) of this section shall cease on the earlier of--

"(A) the last day of the month in which the employee becomes 65 years of age; or

"(B) the last day of the month in which the employee is determined to no longer be under a disability within the meaning of section 223 of the Social Security Act.

"(2) Disability benefits for an employee who is entitled to such benefits under paragraph (2) of subsection (a) of this section shall cease on the earliest of--

"(A) the last day of the month in which the employee becomes 65 years of age;

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"(B) the last day of the month in which the Office determines the employee to be medically recovered from the disability;

"(C) the last day of the month in which the Office determines that the employee has recovered earning capacity, on the basis of evidence that the employee has engaged in gainful employment reasonably comparable in earnings with the position from which the employee separated due to disability; or

"(D) the last day of the month in which the employee is reemployed by the former employing agency in a position in the same commuting area and comparable in earnings with the position from which the employee separated due to disability, or declines an offer of reemployment in such a position.

"(3) Disability benefits shall not be paid for any month during which the employee does not cooperate with any required medical examinations or course of treatment or fails to provide any information required to be submitted under regulations of the Office.

"(e) The Social Security Administration shall provide the Office with any information required by the Office for the administration of this section, notwithstanding any other provision of law.

"§8356. Early retirement

"(a) An employee covered under this subchapter who is an air traffic controller is subject to mandatory separation in accordance with section 8335(a) of this title. An employee covered under this subchapter who is a law enforcement officer or a firefighter is subject to mandatory separation in accordance with section 8335(b) of this title. Section 8335(d) of this title shall apply to employees covered by this section.

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"(b) An air traffic controller, a law enforcement officer, or a firefighter who separates after completing at least 20 years of such employment (including any combination of such employment) is entitled to receive monthly payments paid by the Office in an amount determined by the Office to reasonably approximate the monthly benefits such individual would be entitled to receive under title II of the Social Security Act on the basis of such employment were the employee 62 years of age. The amount of such monthly payments shall be increased each year by the Office on the basis of the percentage change in the Consumer Price Index.

"(c)(1) Payments under this section shall commence on the later of--

"(A) the first day of the month after the month in which the employee or former employee becomes 50 years of age; or

"(B) the first day of the month after the month in which the employee separates from employment covered under this subchapter.

"(2) Payments under this section shall cease on the last day of the month in which the former employee becomes 62 years of age.

"§8357. Federal Employees' Savings Plan

"(a) The Office shall establish a Federal Employees' Savings Plan under which an employee covered under this subchapter may contribute, by means of allotments from pay, up to \$5,000 per year to the employee's account in the Plan. The moneys contributed to the Plan shall be deposited in the Treasury to the credit of the Fund.

"(b) Amounts contributed to the Federal Employees' Savings Plan under this section shall not be included in the gross income of the employee for the purposes of title 26.

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"(c) The balance in an employee's account in the Federal Employees' Savings Plan is available for distribution to the employee in the same manner as amounts in an individual retirement account under section 408 of title 26, and any distribution shall be treated for the purposes of title 26 as if it were the distribution of amounts in an individual retirement account.

"§8358. Federal Employees' Retirement Fund

"(a) There is established within the Civil Service Retirement and Disability Fund in the Treasury of the United States a Federal Employees' Retirement Fund, consisting of the agency contributions remitted under section 8353 of this title, employees' savings under section 8357 of this title, and interest earned by the Fund under section 8348(c) of this title. The Fund is available for the payment of benefits and distributions as provided in this subchapter and for payment of expenses of the Office in administering this subchapter, without regard to section 8348(a)(2) of this title.

"(b)(1) The Office shall determine, prior to the beginning of each fiscal year, the normal cost, stated as a percentage of wages, of survivor benefits under section 8354(e) of this title (to the extent such cost exceeds the value of deceased employees' accounts), disability benefits under section 8355 of this title, and the expenses incurred by the Office in administering this subchapter. In determining such normal cost, the Office shall take into consideration the value of accounts forfeited under section 8354(b) of this title, which shall be available to defray the cost of such survivor benefits, disability benefits, and administrative expenses. The Office may vary the normal cost so determined on an agency-by-agency basis if the Office determines it would be

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appropriate to do so on the basis of differences in rate of disability between agencies.

"(2) The Office shall determine, prior to the beginning of each fiscal year, the normal cost, stated as a percentage of wages, of payments under section 8356 of this title for air traffic controllers, law enforcement officers, and firefighters.

"(3) Each agency employing an employee covered under this subchapter shall remit to the Fund, as provided in section 8353(b) of this title, an amount equal to--

"(A) the percentage of wages determined under paragraph (1) of this subsection for each employee of the agency covered under this subchapter; and

"(B) the percentage of wages determined under paragraph (2) of this subsection for each employee of the agency who is an air traffic controller, a law enforcement officer, or a firefighter covered under this subchapter.

"§8359, Administration; regulations

"(a) The Office shall administer this subchapter and shall prescribe such regulations and perform or cause to be performed such acts as are necessary and proper to carry out this subchapter. The Office may, without regard to section 5 of title 41 or other statute requiring competitive bidding, enter into contracts for the performance of any of the functions for which the Office is responsible under this subchapter.

"(b) Claims under this subchapter shall be in such form as the Office prescribes. Agencies shall support the claims by such certification as the

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Office considers necessary to the determination of the rights of applicants. The Office or its designee shall adjudicate all claims under this subchapter.

"(c)(1) Except as provided in paragraph (2) of this subsection or other Federal laws, the money mentioned in this subchapter is not assignable, either in law or equity, or subject to execution, levy, attachment, garnishment, or other legal process.

"(2) Notwithstanding any other provision of this subchapter, the Office shall by regulation provide rights and benefits under this subchapter for spouses and former spouses of employees that are consistent with the rights and benefits provided spouses and former spouses under subchapter III of this chapter.

"(d) If payment is made to an individual under this subchapter erroneously or in an incorrect amount, recovery shall be made under regulations prescribed by the Office, which may include reduction of subsequent payments to which the individual is entitled. However, recovery may be waived if the Office determines, in its sole discretion under such procedures as it may determine appropriate, that the individual is not at fault for the erroneous or incorrect payment and recovery would be contrary to equity and good conscience.

"(e) The Office shall consult with the Board of Actuaries established under section 8347(f) of this title on the actuarial status of the Federal Employees' Retirement System and the Board shall furnish its advice on any matters referred to it by the Office.

"(f) The Office may include in the operation of this subchapter any individual who was covered by subchapter III of this chapter

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prior to January 1, 1984, and who elects in writing, not later than December 31, 1986, to terminate such coverage and to be covered under this subchapter. An individual who makes such an election shall be deemed, for purposes of the Social Security Act, title 26, and section 8331(1)(x) of this title to have first become employed by the United States after December 31, 1983. There shall be transferred to the employee's account in the Federal Employees' Retirement Fund the balance of any contributions made by such individual to the Civil Service Retirement and Disability Fund, plus an equal amount representing the agency's contributions, plus an amount determined appropriate by the Office to represent the interest such employee and agency contributions have earned while invested in the Civil Service Retirement and Disability Fund. For the purposes of determining entitlement to benefits under this subchapter and disability and survivors benefits under the Social Security Act, the period during which such individual was employed subject to subchapter III of this chapter shall be deemed to have been employment under this subchapter and under the Social Security Act.

"(g) The Federal Employees' Retirement System established under this subchapter shall be deemed a qualified plan for the purposes of title 26."

(b) The analysis for chapter 83 of title 5, United States Code, is amended by adding at the end thereof the following:

: "SUBCHAPTER IV--FEDERAL EMPLOYEES' RETIREMENT SYSTEM

- "§8351. Purpose.
- "§8352. Definitions.
- "§8353. Contributions.
- "§8354. Employee retirement accounts; payment of benefits.
- "§8355. Disability benefits.

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- "§8356. Early retirement.
- "§8357. Federal Employees' Savings Plan.
- "§8358. Federal Employees' Retirement Fund.
- "§8359. Administration; regulations."

(c) Section 8331 of title 5, United States Code, is amended--

(1) in paragraph 1--

(A) after subparagraph (viii) by striking out "or";

(B) in subparagraph (ix) by striking out the period at the end thereof and inserting in lieu thereof "; or"; and

(C) by adding after subparagraph (ix), as amended, the following new subparagraph:

"(x) an employee covered by the Social Security Act by reason of having become employed by the United States after December 31, 1983."; and

(2) in paragraph (2)--

(A) by striking out "after he gives" and inserting in lieu thereof "who, prior to January 1, 1984, gave"; and

(B) by inserting immediately before the semicolon the following: "and whose election has remained continuously in effect and who does not elect to terminate such coverage under section 8359(f) of this title".

Sec. 3. Section 8901(3)(A) of title 5, United States Code, is amended by inserting "or IV" after "subchapter III".

Sec. 4. An employee who has been a covered employee under the Civil Service Retirement System under section 203(a)(1) of Public Law 98-168, and who was not employed by the Government on December 31, 1983, shall be covered under the Federal Employees' Retirement System as enacted by section 2 of this Act, effective on January 1, 1986. There shall be

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transferred to the employee's account in the Federal Employees' Retirement Fund the balance of any contributions made by such a covered employee under section 204(a) of Public Law 98-168, plus the agency contributions with respect to that employee under section 204(b) of that Public Law, plus the amount of the contribution deficiency with respect to that employee under section 205 of that Public Law, plus an amount determined appropriate by the Office of Personnel Management to represent the interest such money has earned while invested in the Civil Service Retirement and Disability Fund. The employee's covered service under section 203(a)(3) of Public Law 98-168 shall be deemed employment under subchapter IV of chapter 83 of title 5, United States Code, as added by section 2 of this Act.

Sec. 5. The Office of Personnel Management shall determine the unfunded liability (including the effects of future pay increases and future cost-of-living adjustments) of the Civil Service Retirement System under subchapter III of chapter 83 of title 5, United States Code, and shall notify the Secretary of the Treasury of the amounts needed to amortize that unfunded liability in 40 equal annual installments. On September 30, 1987, and at the close of each fiscal year thereafter, the Secretary of the Treasury shall credit to the Civil Service Retirement and Disability Fund, out of any money in the Treasury not otherwise appropriated, the annual installment so determined until the unfunded liability has been paid. The Office of Personnel Management may, from time to time, increase or decrease the amount of the annual installment to the extent actuarial gains and losses result in changes in the remaining unfunded liability.

Sec. 6. (a) The amendments made by sections 2 and 3 of this Act are effective on January 1, 1986.

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(b) Notwithstanding any other provision of law, the Secretary of the Treasury shall advance to the Office of Personnel Management, out of any funds in the Treasury not otherwise appropriated, such moneys as the Director may require in order to establish necessary administrative arrangements for the Federal Employees' Retirement System, with such money as is advanced to be repaid to the Treasury, with interest at a rate specified by the Secretary, not later than January 1, 1996, out of amounts set aside in the Federal Employees' Retirement Fund for administrative expenses.